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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,246	08/31/2001	Chet D. Linton	8808.11	1295
21999 7590 11/09/2009 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111				
EXAMINER FERNSTROM, KURT				
ART UNIT		PAPER NUMBER		
3711				
MAIL DATE		DELIVERY MODE		
11/09/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/945,246

**Applicant(s)**

LINTON, CHET D.

**Examiner**

Kurt Fernstrom

**Art Unit**

3711

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 9-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/IC)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 9-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siefert in view of Pellegrino. Siefert discloses in the Figures and specification a method of providing educational material over a computer network that teaches skills in accordance with measurable standards. Siefert further discloses in column 15, lines 48-59 that Teacher's Guides are provided to instructors to assist them in working with the system and in guiding students through the curriculum. These Teacher's Guides read on the step of providing training to an instructor. While Siefert does not explicitly disclose that the Teacher's Guides are provided via the Internet, this step is obvious in light of the overall disclosure of Siefert, which is directed to providing educational material over a computer network. Siefert also discloses in column 15, lines 11-47 and 60-67 that students are tested, and reports are generated based on comparisons of performance to measurable standards for the purpose of determining the effectiveness of the training. Siefert fails to disclose a lesson plan development system as recited. However, Pellegrino discloses in column 17, lines 13-33 and column 20, line 16 to column 21, line 49 an online system comprising a matrix for use by an instructor in

developing lesson plans. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Siefert by providing a lesson plan development matrix for the purpose of allowing a user to assist an instructor in developing a lesson plan as part of the training. The step of providing worksheets as recited is considered to be an obvious variation on the teachings of Siefert and Pellegrino, as worksheets are well known in instructional settings and both Siefert and Pellegrino discloses a step of providing instructional information over the Internet. With respect to claims 2 and 3, the step of providing evaluation reports to supervisors and instructors is obvious in light of the teachings of the prior art. With respect to claim 4, 9, 11 and 18, the Teacher Guides are considered to be pertinent to professional training. With respect to claims 5 and 10, Siefert discloses on-line training. With respect to claim 6, audio and video are well known means of transmitting training materials, and are obvious in light of the teachings of Siefert. With respect to claim 12, the step of providing instruction pertaining to measurable standards inherently involves inputting said standards and data into electronic media. With respect to claim 13, while Siefert does not explicitly disclose the use of pedagogical standards, such standards are obvious in light of the teachings of Siefert. With respect to claims 14-16, Siefert discloses third party access to the standards and the steps of evaluating the success of the training and modifying them in response thereto. With respect to claims 17-21, it is known to evaluate an instructor based on performance of the student. This step is obvious in light of the teachings of Siefert. With respect to claim 22, making the training available to parents would have been obvious in light of the teachings of the prior art.

### ***Response to Arguments***

Applicant's arguments filed June 26, 2009 have been fully considered but they are not persuasive. Siefert discloses in column 15, lines 48-59 that

[t]he teachers who work with this system will need to have Teachers' Guides containing all the content and resources in the system; there will be one of these for each grade level. They will need to know these well so that they can give assignments within the system to cover different problems that may arise.

The invention can be designed to provide many options, and the student's preferences can lead him through the curriculum to some extent; but the teachers' role will be critical in guiding the student through any rough spots, and being sure that the entire year's curriculum is completed on time.

The teacher's performance in giving assignments and guidance to the student is inherently affected by the evaluation of the student's progress and resultant modification of the materials presented. This results in improvement of the teaching by the instructor, under the broadest reasonable interpretation of the claim limitation. The prior art references, viewed as a whole, suggest the claimed invention.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kurt Fernstrom/  
Primary Examiner, Art Unit 3711

November 5, 2009